

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES
ISSUED BY STATE BOARD OF ACCOUNTS

December 2001

YEAR END DUTIES

The following is a listing of duties and reports that occur each year end. Some of the articles have been published in this issue.

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IMPORTANT INTERNET ADDRESSES

State Board of Accounts Homepage:	http://www.in.gov/sboa
Charlie Pride:	cpride@sboa.state.in.us
Larry Tippin:	ltippin@sboa.state.in.us
Approved Depository List:	http://www.in.gov/deposit/
Social Security Administration:	http://www.ssa.gov/slge/
Public Employees' Retirement Fund:	http://www.in.gov/perf/
U. S. Department of Labor	http://www.dol.gov
Internal Revenue Service	http://www.irs.gov

CANCELLATION OF WARRANTS - OLD OUTSTANDING CHECKS

Pursuant to IC 5-11-10.5, all checks outstanding and unpaid for a period of two years as of December 31 of each year are void.

Not later than March 1 of each year, the treasurer of each political subdivision shall prepare or cause to be prepared a list in duplicate of all checks outstanding for two or more years as of December 31 last preceding. The original copy shall be filed with the fiscal body of the city or town and the duplicate copy maintained by the disbursing officer of the city or town. The treasurer of each political subdivision shall enter the amounts so listed as a receipt to the fund or funds upon which they were originally drawn and remove the checks from the list of outstanding checks. If the fund from which the check was originally drawn is not in existence or cannot be ascertained, the amount of the outstanding check shall be receipted into the general fund of the political subdivision.

SOCIAL SECURITY TAX BASE CHANGES JANUARY 1

The 2002 contribution rate will remain at a total of 15.3 percent. The tax rate for both employees and employers for 2001 will be 7.65 percent. (6.2% Social Security and 1.45% Medicare)

We further understand that the maximum amount of earnings that will be subject to Social Security contributions will be raised from \$80,400 to \$84,900 effective January 1, 2002.

Please contact the Internal Revenue Service at 1-800-829-1040 if you should have questions on this matter.

ENCUMBERED APPROPRIATIONS - BALANCE AVAILABLE

With the opening of a new budget year and a new set of ledgers, it is to the advantage of a municipality to review the unpaid purchase orders and contracts which remain on the ledgers as "encumbered."

Those items under contract are to be added for each appropriation account and the total carried to the new 2002 corresponding account. The actual unpaid amount of the purchase orders or contracts should be totaled and shown as a separate amount on the appropriation ledger sheet for 2002, with proper explanation, and added to the 2002 appropriation for the same purpose. By properly carrying out this procedure, the 2002 budget will not be expected to stand any expense not anticipated in making the budget.

We suggest the proper officials of the city or town make a listing of these encumbered items and make it part of their minutes in their last business meeting of the year. The State Board of Tax Commissioners should be sent a copy of the listing.

Keep in mind the appropriations encumbered and carried forward can be used for no other purpose other than the purchase order or the contract for which they were appropriated.

TRUST ITEMS – CITY AND TOWN COURTS (Effective January 1, 2002)

All items that can be legally disbursed should be paid immediately to the person or persons entitled thereto. All fees and funds five or more years old, including old outstanding checks, should be scheduled on forms provided by the Attorney General and paid over to the Attorney General as required by IC 32-9-8. They should not be allowed to accumulate beyond the five year anniversary date of issue.

OLD OUTSTANDING CHECKS NOT RETURNED – CITY AND TOWN COURTS
(Effective January 1, 2002)

In order to eliminate old outstanding checks from the records, the court should perform the following:

1. Issue a formal stop payment order to the bank upon which each check is drawn.
2. Enter the amount of each check as a receipt in the cash book. Post the respective amounts to the trust column of the cash book and enter each amount in the name of the payee in the register of trust funds.
3. Since the checks have never cleared the bank, the amount is still on deposit. Therefore, when all such checks are charged to the records and reinstated in the trust register, the original check numbers will be eliminated as outstanding in the next reconciliation with the bank.
4. If, at the time such checks are restored to the records, the original dates indicate the checks have been outstanding for five or more years, they should be paid over to the Attorney General immediately. The original date should be shown in the register of trust. If the checks are not five years old they should be held until the five year period has elapsed.

The entry in the cash book should be:

“Old Outstanding Check No. _____ issued _____ (date) _____, to _____
(Name) _____,” and extend the amounts to the total and trust fund columns.

Since outstanding checks of a city or town court are not included within the meaning of IC 5-11-10.5, city and town courts are to follow the preceding steps in handling old outstanding checks.

VACATION, SICK, AND OTHER LEAVE

Ordinances Required

Employees of the political subdivisions of the state may be granted a vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance of the legislative body of a city or town or by the controlling board of municipally owned utility, or by the board of directors or regents of a cemetery. Payment of vacation benefits so granted may be made in advance of any vacation taken by such an employee (IC 5-10-6-1).

It is noted the use of “may” provides authority without mandating such fringe benefits.

It is imperative for all cities and towns to have written guidelines and policies concerning fringe benefits, vacation and sick leave. Such policies should be in the form of an ordinance. If your municipality had no such written guidelines and is now, or wishes in the future, to provide fringe benefits to their employees please insist that the proper officials pass an ordinance concerning these fringe benefits. In the absence of an ordinance, in future audits the State Board of Accounts will find it necessary to take an audit exception for any such payments made during the period of the audit.

Furthermore, it is our audit position that if an employee uses leave time, he/she should not be working when such leave time is scheduled. Such employee cannot be compensated twice for the same work period.

VACATION, SICK, AND OTHER LEAVE (Continued)City Officers and Employees – Prior Payment of Vacation Leave – Authority

IC 36-4-8-9 states: "... One (1) to three (3) days before the vacation leave period of a city officer or employee begins, the city may pay him the amount of compensation he will earn while he is on vacation."

Town Officers and Employees – Prior Payment of Vacation Leave - Authority

IC 36-5-4-7 states: "... One (1) to three (3) days before the vacation leave period of a town officer or employee begins, the town may pay him the amount of compensation he will earn while he is on vacation leave."

ADDITIONAL APPROPRIATIONS

IC 6-1.1-18-5 states as, as follows:

- "(a) If the proper officers of a political subdivision desire to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, they shall give notice of their proposed additional appropriation. The notice shall state the time and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with I.C. 5-3-1-2(b).
- (b) If the additional appropriation by the political subdivision is made from a fund that receives:
 - (1) distributions from the motor vehicle highway account established under I.C. 8-14-1-1 or the local road and street account established under I.C. 8-14-2-4; or
 - (2) revenue from property taxes levied under I.C. 6-1.1; the political subdivision must report the additional appropriation to the state board of tax commissioners. If the additional appropriation is made from a fund described under this subsection, subsections (f), (g), (h), and (i) apply to the political subdivision.
- (c) However, if the additional appropriation is not made from a fund described under subsection (b), subsections (f), (g), (h), and (i) do not apply to the political subdivision. Subsections (f), (g), (h), and (i) do not apply to an additional appropriation made from the cumulative bridge fund if the appropriation meets the requirements under I.C. 8-16-3-3(e).
- (d) A political subdivision may make an additional appropriation without approval of the state board of tax commissioners if the additional appropriation is made from a fund that is not described under subsection (b). However, the fiscal officer of the political subdivision shall report the additional appropriation to the state board of tax commissioners.
- (e) After the public hearing, the proper officers of the political subdivision shall file a certified copy of their final proposal and any other relevant information to the state board of tax commissioners.
- (f) When the state board of tax commissioners receives a certified copy of a proposal for an additional appropriation under subsection (e), the board shall determine whether sufficient funds are available or will be available for the proposal. The determination shall be made in writing and sent to the political subdivision not more than fifteen (15) days after the board receives the proposal.

ADDITIONAL APPROPRIATIONS (Continued)

- (g) In making the determination under subsection (f), the board shall limit the amount of the additional appropriation to revenues available, or to be made available, which have not been previously appropriated.
- (h) If the state board of tax commissioners disapproves an additional appropriation under subsection (f), the state board of tax commissioners shall specify the reason for its disapproval on the determination sent to the political subdivision.
- (i) A political subdivision may request a reconsideration of a determination of the state board of tax commissioners under this section by filing a written request for reconsideration. A request for reconsideration must:
 - (1) be filed with the state board of tax commissioners within fifteen (15) days of the receipt of the determination by the political subdivision; and
 - (2) state with reasonable specificity the reason for the request.

The state board of tax commissioners must act on a request for reconsideration within fifteen (15) days of receiving the request.”

From the foregoing, it appears additional appropriations for expenditures from the Motor Vehicle Highway Fund, Local Road and Street Fund and any fund supported by property taxes (levied under IC 6-1.1) should follow the provisions of subsections (a), (d), (e), (f), (g), (h), and (i).

For all other funds, only subsections (a), (d), and (e) must be followed.

Any questions concerning these procedures should be directed to the State Board of Tax Commissioners, telephone number (317) 232-3773.

ALCOHOL AND DRUG SERVICES PROGRAM

IC 12-23-14 authorizes a court having misdemeanor jurisdiction in a city to establish an alcohol and drug services program either under the court's operation or under private contract. The court shall establish uniform rules for the operation of the program.

An alcohol and drug services program is subject to the regulatory powers of the Indiana Judicial Center. The Board of Directors of the Judicial Conference of Indiana shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of alcohol and drug services programs.

A court may require an eligible individual to pay a fee for a service of a program. If a fee is required, the court shall adopt by court rule a schedule of fees to be assessed for program services. The fee may not exceed four hundred dollars (\$400). All fees shall be deposited in the city user fee fund.

The costs of an alcohol and drug services program shall be paid out of the city general fund and may be supplemented by payment from the city user fee fund upon appropriation made under IC 33-19-8.

PUBLIC RECORDS GO WITH THE OFFICE

Sometimes when an official is replaced by reason of resignation, election, or for other reasons, we find the official's records are withheld until they can be audited or are found to be missing completely.

It is not necessary that the records be audited immediately when an official is replaced. Audits are performed in accordance to statutory requirements and this department's audit assignment program. When an official assumes custody of an office, many of the forms and records are continuous. Each fiscal officer executes a bond that the officer will render faithful accounting. Should the officer relinquish his office, his acts are a matter of record and nothing can be done to change the various transactions that have been previously made.

Regardless of the capacity filled by an official, upon termination of his service, all records and forms are to be surrendered to his successor. For various statutes requiring this transfer, see IC 36-4-10-5(6), City Controller; IC 36-4-10-4(4), City Clerk and City Clerk-Treasurer; IC 36-5-4-10, Town Clerk-Treasurer. IC 5-15-6-8 states that the penalty for a Public Official who knowingly or intentionally destroys or damages any public record is a Class D felony.

TEMPORARY LOANS – UTILITIES

Since the temporary loan provisions of IC 36-1-8-4 would not apply to funds of a municipally owned utility and there are no statutes authorizing or prohibiting loans from a city or town fund to a municipally owned utility, a home rule ordinance could be adopted authorizing such loans. Such ordinance should list the amount and term of the loan and interest rate, if interest is to be charged.

Please note that recurring cash flow problems experienced by a municipally owned utility could indicate a need for an increase in utility rates. IC 8-1.5-3-8 and IC 36-9-23-25 require the boards over municipally owned utilities and wastewater utilities to set rates in an amount which will ensure sound fiscal condition for the utilities.

RIGHT OF WAY EASEMENTS - RECORDING

Whenever a right-of-way or easement for a state, county, or municipal highway is acquired, an accurate description of all rights-of-way and easements shall be filed in the office of the recorder of the county in which the real property is located. The description shall be recorded in the deed records of the county. The county recorder may not charge a fee for filing and recording the description. (IC 8-23-23-1)

INTEREST ON INVESTMENTS

Interest is to be credited to the political subdivision funds as indicated below:

1. All interest derived from an investment by a political subdivision under the authority granted by IC 5-13-9-3 shall be deposited, except as otherwise provided by law, in the general fund of the political subdivision or in any other fund the governing board designated specifically or by rule, subject to the modifications and limitations in IC 5-13-9-6. [IC5-13-9-6(a)]
2. Interest from investments of funds of a political subdivision that are traceable to Untied States government funds must be receipted to the fund of which they are a part, if required by federal law or regulation. [IC 5-13-9-6(b)]
3. Interest from investments of funds controlled by court orders must be receipted to that fund unless otherwise designated by the court order. [IC 5-13-9-6(b)]

INTEREST ON INVESTMENTS (Continued)

4. A political subdivision may apply the interest derived from the investment of the proceeds from bonded indebtedness or local tax levies to the appropriate redemption bond interest or sinking fund for the bonded indebtedness. [IC 5-13-9-6(e)]

Note: Regardless of IC 5-13-9-6(e), terms of an existing bond resolution must be followed. The bond resolution should be reviewed and its terms and conditions adhered to without exception.

5. If meter deposits of a municipally owned utility are invested, the interest earned on the investment may be applied to and used in the operation or depreciation fund of the municipally owned utility as determined by its governing body. [IC 5-13-9-6(f)]

Interest on investments should not be added automatically to the investment. Instead, interest on investments should be paid to the governmental unit at each maturity date and posted to the appropriate fund.

“Interest from the investment of public funds may not be paid personally or for the benefit of any public officer.” [IC 5-13-9-6(g)]

REST BREAKS – CHILDREN UNDER EIGHTEEN (18)

Public Law 122, Acts of 2001, which added IC 20-8.1-4-20.5, requires a person, firm, limited liability company, or corporation that employs a child less than eighteen (18) years of age to provide a rest break of at least thirty (30) minutes to a child who is scheduled to work at least six (6) consecutive hours.

The rest break must be available to the child during the time beginning three (3) hours after and ending five (5) hours after the child begins the child's period of duty.

INDEX TO BULLETINS

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The articles appearing in the year 1991 and prior issues have been revised and reprinted in later issues. Also, articles revised in later issues that are obsolete have been omitted from the index. Please discard all issues prior to March, 1992.

DNR HUNTING VIOLATIONS

IC 14-22-38 lists several penalties for hunting violations which could be heard in a city or town court. The following is a list of such violations.

1. Illegal taking, catching, killing, possession or transportation of an animal except a deer or a wild turkey – Class C Misdemeanor. There is also a requirement the person reimburse the State \$20 for the first violation and \$35 for each subsequent violation for the illegal taking or possession of a wild animal.
2. Illegal taking of a deer or a wild turkey – Class B Misdemeanor. There is also a requirement that the person reimburse the State \$500 for the first offense and \$1,000 for each subsequent violation.
3. Illegal selling or shipping wild animals – Class C Misdemeanor.
4. Failure to wear hunter orange when hunting using a firearm – Class D Infraction.

A city or town court collecting reimbursements to the State under 1 and 2 shall receipt the money into the Register of Trust Funds and remit the money directly to the Department of Natural Resources. All fines collected shall be remitted to the Auditor of State with other State Fines and Forfeitures.

CITIES AND TOWNS ACCOUNTING MANUAL

The Cities and Towns Accounting and Uniform Compliance Guidelines Manual (with annual revisions) is furnished to city and town fiscal officers without charge. We receive many requests for copies from individuals other than the fiscal officer. Due to the progressively increased cost of mailing the publications, an administrative charge of \$15.00 has been established for those other officials wishing to receive the Cities and Towns Accounting and Uniform Compliance Guidelines Manual. Please make checks payable to "Treasurer, State of Indiana" when ordering a hard copy of the manual. The manual may be downloaded from our website at <http://www.in.gov/sboa>.

COMPUTERIZED ANNUAL REPORT

The Annual Report will be available online at www.in.gov/sboa/publications. Click on Computerized Annual Report and then click on the form needed. You may use this program to complete your annual report. If you use this program, please make sure to send us the data on a floppy disk. See the instructions under the Help Menu for more information. If you have questions concerning this, please contact Linda Baker of our office at (317) 232-4958.

MERRY CHRISTMAS

In reflecting back over the past years, we have all been faced with many new problems and difficult decisions. Some of those problems have been resolved while many still remain for us to find solutions. We extend, as we have in the past, our sincerest efforts for cooperation on a joint effort to resolve those problems in our area of expertise.

We extend our thanks for the tremendous cooperation and assistance afforded our audit staff and this Board throughout this year in an effort to improve audit efficiency. From each of us and our staff to each of you and your staff, we send our best wishes for the holidays and our sincere wishes for a prosperous and happier new year.

Charles Johnson III
State Examiner

Michael A. Fiwek
Deputy State Examiner

Marilyn S. Rudolph
Deputy State Examiner